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FISCAL IMPACT STATEMENT

LS 6970

BILL NUMBER: HB 1456

NOTE PREPARED: Jan 1, 2009

BILL AMENDED:

SUBJECT: Drug Courts and Children in Need of Services.

FIRST AUTHOR: Rep. Gutwein

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill allows a parent, guardian, or custodian of a child who has been adjudicated a Child in Need of Services (CHINS) due at least in part to the substance abuse of the parent, guardian, or custodian to participate in a drug court and receive intervention, treatment, and rehabilitative services. The bill specifies that if the parent, guardian, or custodian: (1) successfully completes drug court; or (2) has the person's participation in the drug court terminated; that fact must be taken into consideration when modifying a dispositional decree concerning the CHINS.

It also provides that, in addition to certain other conditions, a court may defer criminal or juvenile proceedings and place a person who is a parent, guardian, or custodian of a child who has been adjudicated a CHINS in a drug court only if the Department of Child Services (DCS) consents to the referral.

Effective Date: July 1, 2009.

Explanation of State Expenditures: This bill may increase the number of people in substance abuse programs funded by the Department of Mental Health and Addiction (DMHA) and may increase enrollment in the Hoosier Assurance Plan (HAP). The bill, as a result, may increase state expenditures for substance abuse programs. Expenditure increases will depend on agreements regarding substance abuse diversion programs for qualifying individuals. Increases in expenditures are expected to be small.

Background Information: The HAP is a program that is funded by DMHA and is the primary funding system used to pay for mental health and addiction services. The program provides services to persons with substance abuse disorders and have either no insurance or not enough insurance for mental health or

addictions services. Eligibility requires qualifying for either Medicaid, Food Stamps, or falling below 200% of the federal poverty line. HAP does not finance 100% of an individual's care but requires enrollees to participate in paying for care based on financial ability to pay as determined by a sliding fee scale.

Explanation of State Revenues: If this bill results in additional people receiving substance abuse programming, the state may see an increase in federal revenue under the Medicaid program. State revenue will depend on whether the federal Center for Medicare and Medicaid Services (CMS) approves treatment expenses for diverted individuals to qualify for matching funds under the Medicaid program and if individuals undergoing a substance abuse diversion program would qualify for Medicaid.

Background Information: DMHA reports that approximately 23% of those registering for addiction services in the HAP are on Medicaid.

Explanation of Local Expenditures: This bill will make a legal guardian of a child who has been judicially determined to be a CHINS due to substance abuse of the legal guardian eligible for drug court intervention. This bill increases the population of individuals that are eligible for drug court intervention which can (1) increase the workload of drug courts and (2) increase costs associated with treatment of the additional population. Increases in expenses for drug court intervention and treatment will depend on (1) the number of individuals who would become eligible for the program, (2) how many court referrals are made to send individuals to drug court, (3) how many legal guardians of CHINS that are referred to drug court consent to the referral, and (4) if the prosecuting attorney and the Department of Child Services (DCS) consents to the referral.

This bill expands the jurisdiction of drug courts to include courts having felony, misdemeanor, or juvenile jurisdiction in a city or county to accept an eligible individual who is referred to the drug court from another court under certain criteria. The bill allows juvenile courts (the courts of jurisdiction in CHINS cases) the authority to refer legal guardians of CHINS who were determined substance abusers to drug court intervention programs provided that DCS consents to the referral. Actual increases in drug court participation will depend on individuals that are adjudicated in CHINS cases due to substance abuse that DCS approves for drug court referral.

The bill provides that if program participation of a legal guardian in a CHINS case is terminated due to certain conditions, the drug court is required to either modify the disposition entered by the drug court in the CHINS case or refer the case back to the court of original jurisdiction to modify the decree considering the participation termination. The drug court is required to (1) modify a determination in a CHINS case made by the drug court or (2) refer the case back to the court of original jurisdiction if the individual completes the drug court intervention. These requirements will increase workload of local courts to the extent that drug courts refer cases back to the court of original jurisdiction.

Drug court costs may be financed out of the city general fund or the county general fund, depending on the location of the drug court. An increase in the number of people who are moved into the drug court system can increase the expenditures of the city or county the court has jurisdiction in.

Background Information: DCS reports that in FY 2005, there were 2,271 types of maltreatment allegations due to neglect related to substance abuse and no cases of physical or sexual abuse reported due to substance abuse. Additionally, 24% of reported cases of neglect during FY 2005 were substantiated. This implies that

545 CHINS neglect cases decided due to drug-related conditions can be expected to be substantiated and eligible for drug court intervention. [Note: This information will be updated as it becomes available from DCS.]

Explanation of Local Revenues: Courts establishing a drug court may require an eligible individual to pay a fee for services that the court provides. Fees assessed against individuals eligible for drug court intervention are not allowed to exceed \$500 per referral. These funds are deposited into the Indiana Judicial Center Drug Court Fund, which is administered by the Indiana Judicial Center and is a nonreverting account. It is not known how much each county charges for fees or how much revenue this will generate for the fund. The maximum amount of revenue this bill may create for the Fund is \$272,500 if 545 cases are referred to drug courts.

State Agencies Affected: DCS; DMHA.

Local Agencies Affected: Drug courts; Juvenile courts.

Information Sources: State Court Administration; DCS; Ann Houseworth, DCS.

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